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the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the
Elimination of Racial Discrimination

Philippines

1. At its 1218th and 1219th meetings, held on 5 and 6 August 1997, the Committee on the Elimination of Racial Discrimination considered the eleventh to fourteenth periodic reports of the Philippines (CERD/C/299/Add.12) and adopted, at its 1231st meeting, held on 14 August 1997, the following concluding observations.

A. Introduction

2. After a lapse of eight years, the Committee welcomes the opportunity to resume the dialogue with the State party, on the basis of its eleventh to fourteenth periodic reports. While a number of important questions raised and recommendations made during the consideration of the tenth report of the State party have not been addressed in the present report, the Committee expresses its appreciation for the answers provided by the delegation to the many questions asked in the course of the discussion, which enabled it to obtain a clearer picture of the situation in the country with respect to the implementation of the Convention.

B. Factors and difficulties impeding the implementation of the Convention

3. It is noted that, although the State party has recently introduced important reforms at the political, economic and social levels, the authorities have not yet been able to control endemic poverty, which exacerbates social inequalities and disparities in development, affecting in particular vulnerable groups, including the indigenous cultural communities and Muslim Filipinos.

C. Positive aspects

4. The Committee welcomes the proclamation of the National Decade for Filipino Indigenous People (1995-2005) and the presentation to the President, in compliance with Memorandum Order No. 335 of 26 January 1996, of a Philippines Human Rights Plan, comprising the Sectoral Action Plans for Human Rights Protection of Indigenous Cultural Communities and Muslim Communities.

5. The Committee expresses its satisfaction at the adoption of various measures with the effect, directly or indirectly, of preventing and combating disparities between various ethnic groups, in particular, the adoption of the Social Reform Agenda under the Medium-Term Development Plan, aimed at fighting poverty and attaining social justice; the promulgation of the Rules and Regulations on Children of Indigenous Cultural Communities, seeking to provide those children with basic health, nutrition and other social services; the adoption of measures by the Department of Labour and Employment for the prevention of discrimination against workers from minority groups; and the granting of scholarships to children and youths from the indigenous cultural communities through the National Integration Study Programme and the Special Ethnic Groups Educational Assistance Programme.

6. The Committee notes with appreciation that a number of steps have been taken towards the peaceful settlement of the conflict between the Government and the Muslim Filipino community in the southern part of the country, such as the negotiation of a cease-fire in 1990 and the signing of a peace agreement in 1996 between the Government and the Moro National Liberation Front; the issuance of Executive Order No. 371 of 2 October 1996 establishing a Special Zone of Peace and Development, the Council for Peace and Development and a Consultative Assembly; and the adoption on 15 October 1996 of Administrative Order No. 297 on the implementation of the provision in the peace agreement for members of the Moro National Liberation Front to join the National Police.

7. The Committee notes with satisfaction, with respect to article 5 (d) (v) of the Convention, the launching of the Comprehensive Agrarian Reform Programme to improve the tenure of indigenous cultural communities in their ancestral lands, and the issuance of Administrative Order No. 02, Series of 1993, providing for the issuance of certificates of ancestral land and domain claims to individuals, families or clans, and indigenous communities, even though those certificates do not constitute titles of property in land.

8. With respect to article 7 of the Convention, the Committee welcomes the adoption of measures such as the issuance of Executive Order No. 27 of 1986, instructing the Department of Education, Culture and Sports to include the study of human rights in the curricula at all levels of education; the creation by the Department of Education, Culture and Sports of "writeshops" on peace education in which members of indigenous cultural communities participated; and the setting up by the Department of Education, Culture and Sports and the Commission on Human Rights of training programmes on human rights for supervisors, who will in turn train teachers on the ways to introduce human rights education in schools.

9. The Committee is encouraged by the several bills pending before Congress, specifically dealing with the solution of the fundamental issue of the restoration of the indigenous cultural communities' rights to their ancestral domains/lands (House Bill No. 33 and Senate Bill No. 1728), with equal employment opportunities for members of the indigenous cultural communities and Muslim Filipinos (Senate Bills No. 153, 212 and 1057) and with improvement of the economic and social situation of the cultural communities (Senate Bill No. 1476). The Committee is further encouraged by the action of President Ramos in requesting Congress to enact these bills into law by November 1997.

10. The Committee welcomes the establishment of the Commission on Human Rights and of the Tanodbayan (Ombudsman).

D. Principal subjects of concern

11. In connection with the statement in paragraph 4 of the report, that "racial discrimination, as defined under article 1, paragraph 1, of the Convention, is alien to the prevailing mores and culture of the Filipino people. The type of racial discrimination similar to what was practised in South Africa when the policy of apartheid was not yet dismantled, has never officially or factually existed in the Philippines, neither in a systemic nor formal nor intermittent nor isolated manner. Hence, there have never been any references to the existence of a discriminatory policy on racial grounds nor have there been any allegations of instances of racial discrimination as a specific kind of human rights violation in the Philippines, even before or immediately after the Philippines adopted and ratified the Convention on 21 December 1965 and 15 September 1967, respectively". The Committee emphasizes that the scope of article 1, paragraph 1, of the Convention is broader. The article covers any distinction, exclusion, restriction or preference that has either the purpose or the effect of nullifying or impairing the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis in the political, social, cultural or any other field of public life. Moreover, the report and the information received show that important parts of the population are living in conditions which do not guarantee the exercise of human rights under equal terms.

12. It is noted with concern that there is no specific legislation prohibiting racial discrimination. The Constitution incorporates a comprehensive catalogue of human rights, but legislative, judicial and administrative measures to implement these provisions are still lacking. In this respect, reference is made in particular to articles 2, 4 and 7 of the Convention, which explicitly require States parties to adopt specific measures to give full effect to the rights in question.

13. There has been no clarification of whether Presidential Decree 1350-A of 1978, declaring violations of the Convention unlawful and providing penalties for such violations, is in full conformity with the provisions of article 4 of the Convention; the provisions require that legislative provisions be adopted to classify as an offence the dissemination of ideas based on racial superiority or hatred, acts of violence or incitement to violence against any race or group of persons of another colour or ethnic origin and the provision of assistance to racist activities.

14. The lack of specific disaggregated data concerning the economic and social situation of and existing disparities between various indigenous communities and ethnic tribes living in the country makes it difficult to assess the extent to which they enjoy the rights listed in the Convention.

15. There is no information in the report on the specific laws and practice with respect to the implementation of article 5 of the Convention, especially with respect to the enjoyment of those rights by members of the indigenous cultural communities and the Muslim Filipinos.

16. With respect to article 5, paragraphs (a) and (b), of the Convention, there is concern that many reported cases of disappearances, including members of indigenous peoples and Muslim Filipinos, have not yet been fully investigated and brought before the courts.

17. In connection with article 5 (d) (I) (v) of the Convention, concern is expressed at reports of forced evictions and displacements of indigenous populations in development zones, as well as at reports that specific groups of indigenous peoples have been denied by force the right to return to some of their ancestral lands.

18. With respect to article 6 of the Convention, there is concern at the lack of legislative provisions to implement the right to just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination. Moreover, the absence of reported violations of Presidential Decree 1350-A and of complaints against acts of racial discrimination to the courts raises doubts as to the extent of the publicity given to and the effectiveness of available remedies for victims of racial discrimination.

19. The information concerning the 1990 population census does not clarify sufficiently the questions and comments raised and made during the consideration of the tenth report, particularly in respect of indigenous cultural communities and ethnic tribes.

E. Suggestions and recommendations

20. The Committee recommends that priority attention be given to the enactment of the bills relating to indigenous cultural communities and Muslim Filipinos pending before Congress, that enabling laws be adopted to give full effect to constitutional provisions dealing with the promotion and protection of human rights in general and to the rights protected by the Convention in particular, and that domestic legislation be amended so that it prohibits, as appropriate, racial discrimination as defined in article 1, paragraph 1 of the Convention.

21. The Committee recommends that in its next periodic report the State party deal with measures promoting the interests and welfare of the indigenous cultural communities and Muslim Filipinos as an integral part of its implementation of the provisions of the Convention, rather than as a separate chapter.

22. The Committee also recommends that the next periodic report contain comprehensive information on the powers, functions and activities of the Commission on Human Rights and the Ombudsman, especially on the number and the substance of complaints received, and the action taken as a result.

23. The Committee recommends that information on the ethnic composition of the population, the standard of living of each group, as well as other educational and social indicators, analysed and summarized on the basis of the 1990 population census, be provided in the next periodic report, with particular emphasis on indigenous ethnic communities and tribes.

24. The Committee reaffirms that the provisions of article 4 of the Convention are mandatory, as stated in its General Recommendation VII (32), and recommends that Presidential Decree 1350-A of 1978 be reviewed in the light of this recommendation. The Committee stresses in this regard that the State party should fulfil all its obligations under this article and that, in doing so, it should take fully into account General Recommendation XV (42).

25. The Committee recommends that action be taken at the legislative, administrative and judicial levels to protect the right of everyone, without discrimination, to enjoy their rights under article 5 of the Convention, especially the rights to equal treatment before the courts and all other organs administering justice, to security of person and protection by the State against violence or bodily harm, and to freedom of movement and residence.

26. The Committee recommends that the State party ensure protection against any acts of racial discrimination through the competent courts, in accordance with article 6 of the Convention, by, inter alia, strengthening the court system, the independence of the judiciary and the confidence of the population therein. It further recommends that the right to seek just and adequate reparation for victims of acts of racial discrimination be fully guaranteed under the law and in practice.

27. The Committee recommends that further action be taken to ensure that the provisions of the Convention are more widely disseminated, particularly among members of minority groups and among the judiciary, the police and government officials. In this respect, the Committee recommends that special emphasis be put on the dissemination of information about remedies available in cases of racial discrimination.

28. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention adopted at the fourteenth meeting of States parties.

29. It is noted that the State party has not made the declaration provided in article 14 of the Convention, and some members of the Committee requested that the possibility of making the declaration be considered.

30. The Committee recommends that the State party's next periodic report, due on 4 January 1998, be a comprehensive report and that it address all the points raised in the present observations.